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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,165	12/31/2003	Sadafuku Hayashi	03-004712	6956

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EXAMINER

STEIN, JULIE E

ART UNIT	PAPER NUMBER
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2688

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,165

Applicant(s)

HAYASHI, SADAFUKU

Examiner

Julie E. Stein, Esq.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. Figures 5 and 6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: on page 11, lines 21, "massage" should be "message".
4. In addition, the descriptions of Figures 5 and 6 in the Brief Description of the Drawings appear to show known material and this should therefore be indicated in their descriptions.

Appropriate correction is required.

Claim Objections

5. Claim 1 is objected to because of the following informalities: there appears to be no transition language between what appears to be the preamble and the main portion of the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 27 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 27 recites a computer readable program, thus per se descriptive material and therefore, non-statutory subject matter. However, perhaps if the computer readable program were to be embodied in a computer readable medium this would then qualify as statutory subject matter under 101.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,701,155 to Sarkkinen et al. in view of UK Patent Application No. 2371179 A to Ericsson.

Sarkkinen teaches all the elements/steps of independent claims 1, 10, 18, 26, and 27, including a mobile communication system or a radio network controller or an operation control method for a radio network controller or a radio terminal in a mobile communication system or a computer readable program for causing a computer to execute an operation control method for a radio network controller in a mobile communication system having a function for delivering data of an identical service to a plurality of radio terminals (column 3, lines 1 to 5 and column 4, lines 1 to 9), wherein accordance with movement of a radio terminal having joined the service between radio network controllers (column 6, lines 20 to 35).

However, Sarkkinen does not teach wherein the movement of said radio terminal is notified from a moving destination radio network controller to a moving source radio network controller. But, Ericsson does teach a first RNC updating a second RNC when a user moves from the second RNC to the first RNC (page 4, lines 21 to 29). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the teaching of Sarkkinen, which includes a system, which multicasts to users via RNCs and updates user locations to the RNCs via a SGSN with the method of Ericsson, by having the RNCs themselves update each other when mobile users move between RNCs by sending update messages directly between RNCs because this would lessen the burden on the SGSN taught in Sarkkinen.

Sarkkinen in view of Ericsson teach all the elements/steps of claims 2, 11, and 19, including wherein the movement of the radio terminal between radio network controllers is movement during a period until data reception after said radio terminal has

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joined the service. See, Sarkkinen, column 6, lines 1 to 35 and column 7, lines 48 to 67.

Sarkkinen in view of Ericsson teach all the elements/steps of claims 3, 12, and 20, including wherein said movement of the radio terminal is movement during an idle mode or a standby state. See, Id.

Sarkkinen in view of Ericsson teach all the elements 4, including, wherein said moving source radio network controller reduces to update the number of radio terminals subscribing to the service in response to the notification. See, Sarkkinen, column 6, lines 12 to 35 and column 7, lines 48 to 58.

Sarkkinen in view of Ericsson teach all the elements/steps of claims 5, 13, and 21, including wherein said moving destination radio network controller increases to update the number of radio terminals subscribing to the service. See, Id.

Sarkkinen in view of Ericsson teach all the elements/steps of claims 6, 14, and 22, including wherein said moving destination radio network controller has already set up a common channel for delivery of data of the service, and sets the common channel with respect to said radio terminal moving between radio network controllers. See, Sarkkinen, column 8, line 49 to column 9, line 40, a common channel would equate to a point-to-multipoint connection, which would vary if the number of UEs determined changes when measured against a threshold.

Sarkkinen in view of Ericsson teach all the elements/steps of claims 7, 15, and 23, including wherein said moving destination radio network controller has already set a dedicated channel for data delivery of the service with respect to radio terminals having

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joined the service and, in accordance with the updated number of said radio terminals, judges that the dedicated channel be switched to the common channel for the data delivery of the service. See, *Id.*, a dedicated channel would equate to a point-to-point connection.

Sarkkinen in view of Ericsson teach all the elements/steps of claims 8, 16, and 24, including wherein, in the judgment, said moving destination radio network controller compares the updated number and a predetermined number and, if the updated number is smaller than the predetermined number, sets the dedicated channel with respect to said radio terminal moving between radio network controllers. See, *Id.*

Sarkkinen in view of Ericsson teach all the elements/steps of claims 9, 17, and 25, including wherein the judgment, said moving destination radio network controller compares the updated number and a predetermined number and, if the updated number is equal to or larger than the predetermined number, sets the common channel with respect to said radio terminals having joined the service and said radio terminal moving between radio networks controllers. See, *Id.*

Conclusion

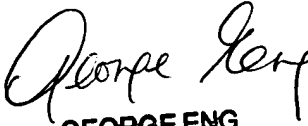
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie E. Stein, Esq. whose telephone number is (571) 272-7897. The examiner can normally be reached on M-F (8:30 am-5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JES


GEORGE ENG
PRIMARY EXAMINER